



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

April 2, 2021

VIA ELECTRONIC MAIL
RETURN RECEIPT REQUESTED

IN THE MATTER OF: Desert View Power LLC

62300 Gene Welmas Way
Mecca, CA, 92254-6546 United States
jrobertson@desertviewpower.com

ATTENTION: Jim Robertson, Manager

Request for Information Under § 114(a) of the Clean Air Act, 42 U.S.C. § 7414(a)

The United States Environmental Protection Agency ("EPA") is issuing this information request to determine the compliance status of Desert View Power LLC ("DVP"). EPA is requesting information to determine compliance of the Clean Air Act, 42 U.S.C. §§ 7401-7671q ("CAA"), at its facility located at 62300 Gene Welmas Way in Mecca, California. Specifically, DVP operates its facility subject to a Title V Permit to Operate and a PSD Permit, which includes requirements of 40 C.F.R. Parts 51, 52, 60, 61, 63, and 71 through 75.

Under Section 114(a), the Administrator of EPA may require any person who is subject to the CAA to provide information necessary to determine whether the person has acted in compliance with regulations promulgated under the CAA. The Administrator has delegated this authority to the undersigned Manager of Region 9's Air Enforcement Office, Enforcement and Compliance Assurance Division.

DVP is hereby required to provide EPA with information requested in Appendix C, within thirty (30) calendar days from receipt of this letter. In responding to this request, DVP shall use the instructions provided in Appendix A and provide the certification in Appendix B.

If DVP anticipates that it will not be able to respond fully to this request within the time period specified, DVP must submit a sworn declaration by a responsible corporate official within fifteen (15) calendar days after receipt of this information request specifying what information will be provided by the allotted deadline, describing the efforts that have been or are being undertaken to obtain the remaining other responsive information, and providing a detailed schedule of when such other responsive information will be provided. Upon receipt and based upon such declaration, EPA may extend the time in which to respond to this information request.

EPA acknowledges that the COVID-19 pandemic may be impacting your business. If that is the case, we will consider your specific circumstances in determining an appropriate timeline for responding to this request for information, while still ensuring that the Agency receives the information it needs to timely confirm your company's compliance with the CAA.

If DVP seeks to withhold any document(s) based on a claim of attorney-client communications privilege or the attorney work product doctrine in its response to this information request, DVP shall provide with its response a privilege log for each document containing the following information: (i) the date, author(s), every individual to whom the document was originally sent, every individual who subsequently acquired the document, the purpose for which the document was sent to or obtained by those individuals, and the employment titles of the authors and recipients; (ii) the subject matter of the document; (iii) the privilege claimed for the document and all facts supporting the claim of privilege; (iv) the primary purpose(s), including the business purposes, for which the document was made; (v) the question(s) in this information request to which the document is responsive; and (vi) all facts contained in the document that are responsive to a question in this information request.

At this time, EPA Region 9 is not accepting any hard-copy document deliveries. The responsive information shall be accompanied by a cover letter sent in electronic form via email to Lapada.yvezeenikita@epa.gov or a file transfer program (FTP). Upon request, EPA can provide a secure link to an FTP site in order to submit responses to this Information Request.

Please be advised that under Section 113(a) of the Act, 42 U.S.C. § 7413(a), failure to provide the information and documents required by this letter may result in an order requiring compliance, an order assessing an administrative penalty, or a civil action for appropriate relief. Section 113(b) of the Act, 42 U.S.C. § 7413(b), provides for the assessment of a civil penalty, which has been adjusted for inflation to not more than \$102,638 per day, for each violation of the Act. See 40 C.F.R. § 19.4 (for violations that occurred after November 2, 2015). In addition, Section 113(c) of the Act, 42 U.S.C. § 7413(c), provides criminal penalties for knowingly making any false material statement in, or omitting material information from, any report required under the Act.

You must submit all requested information under an authorized signature with the following certification (provided in Appendix B):

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

You may assert a confidential business information ("CBI") claim on behalf of DVP covering part or all of the information provided to EPA in response to this letter. Any such CBI claim must conform to the requirements set forth in 40 C.F.R. Part 2, particularly 40 C.F.R. § 2.203, and

contain supporting documentary evidence. See also 41 Fed. Reg. 36,902, 36,907 (Sep. 1, 1976). In addition, any such claim must be substantiated in accordance with 40 C.F.R. § 2.204(e)(4).

Specify by page, paragraph and sentence when identifying information from a document where you make a CBI claim. Where your claim does not include all information on a page, please attach a copy of each such page with brackets around the text you claim to be CBI. If a page, document, or group or class of documents claimed by you to be CBI contains a significant amount of information which our Regional Counsel determines is not CBI, your CBI claim regarding that page, document, or group or class of documents may be denied.

You are advised that certain information may be made available to the public pursuant to Section 114(c) of the Act, 42 U.S.C. § 7414(c), and 40 C.F.R. § 2.301, notwithstanding a claim that such information is entitled to confidential treatment. Please note that emission data provided pursuant to Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. Emission data is defined at 40 C.F.R. § 2.301(a)(2). If no claim of confidentiality is received with your reply, the information may be made available to the public without notice to DVP.

We would also like to take this opportunity to advise you that DVP may qualify as a “small business” under the Small Business Regulatory Enforcement and Fairness Act (“SBREFA”). Please review the enclosed SBREFA Information Sheet, which is designed to provide information on compliance assistance to entities that may qualify as small businesses as well as to inform them of their right to comment to the SBREFA Ombudsman concerning EPA’s enforcement activities. Please be aware that SBREFA does not eliminate DVP’s responsibility to respond in a timely fashion to any complaint or information request that EPA may issue or other enforcement action that EPA may take, nor does SBREFA create any new rights or defenses under the law other than the right to comment to the SBREFA Ombudsman.

This information request is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act because it is not the “collection of information” within the meaning of 44 U.S.C §§ 3502(3) and 3518(c)(1), since it is being issued during the conduct of an investigation involving the EPA against specific individuals or entities. See also 5 C.F.R. § 1320.4.

Any questions concerning this Information Request should be directed to Yvezee Lapada at (415) 947-8700 or Lapada.yvezeenikita@epa.gov or have your attorney contact Denise Leong in the Office of Regional Counsel at (415) 972-3409 or leong.denise@epa.gov.

Roshni Brahmbhatt, Manager
Air Enforcement Office
Enforcement and Compliance Assurance
Division
EPA Region 9 – San Francisco

Enclosures

cc: Todd Sax, California Air Resources Board (via email)
Jack Cheng, South Coast Air Quality Management District (via email)
Javier Aceves, Environmental Manager, Cabazon Band of Mission Indians (via email)

Appendix A

Instructions

1. Provide all responsive documents in Portable Document Format (PDF) or similar format, unless otherwise requested in specific questions. If the PDFs are scanned images, perform at least Optical Character Recognition (OCR) for “image over text” to allow the document to be searchable. Submitters providing secured PDFs should also provide unsecured versions for EPA use in repurposing text.
2. When specific questions request data in electronic spreadsheet form, provide the data and corresponding information in editable Excel format, and not in image format. If Excel formats are not available, then the format should allow for data to be used in calculations by a standard spreadsheet program such as Excel.
3. Provide submissions electronically via email or other electronic file sharing software.
4. Documents claimed as confidential business information (CBI) must be submitted separately from the non-confidential information. This will facilitate appropriate records management and appropriate handling and protection of the CBI. Please follow the instructions in Appendix D for designating information as CBI.
5. Certify that the attached files have been scanned for viruses and indicate what program was used.
6. If you have no information or documents responsive to a request, please so state in your response.
7. Where documents or information necessary for a response are neither in your possession nor available to you, indicate in your response why such documents or information is not available or in your possession and identify any source that either possesses or is likely to possess such information.
8. To the extent that a document is responsive to more than one request, please so state and provide only one copy of the document.
9. All terms used in this information request have their ordinary meaning unless such terms are defined in the CAA, 42 U.S.C. §§ 7401 *et seq.*

Appendix B

Statement of Certification

You are submitting the enclosed documents in response to the U.S. Environmental Protection Agency's ("EPA") Information Request, issued pursuant to Section 114(a) of the Clean Air Act, to determine compliance with the Clean Air Act and its affiliated regulations.

I certify that I am fully authorized by _____ [corporate affiliation] to provide the above information on its behalf to EPA.

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

Date: _____

Name (Printed): _____

Signature: _____

Title: _____

Appendix C

Information You Are Required to Submit to EPA

Desert View Power, LLC must submit the following information about the Facility pursuant to Section 114(a) of the CAA, 42 U.S.C. § 7414(a), within thirty (30) days of receiving this request.

1. Identify the following dates:
 - a. Initial construction date of the Facility;
 - b. Initial date that the Facility combusted fuel;
 - c. Initial date of commercial operation of the Facility, i.e. production and sale of electrical power;
 - d. Date of your purchase or acquisition of the Facility;
 - e. Date that the Facility ceased operation for any period that lasted a year or more (and identify the length of the time that the Facility was not producing power);
 - f. If the Facility is not currently operating, the date that it ceased operation; and
 - g. If the Facility is not currently operating, the expected date of recommencement of commercial operations.
2. Identify the operating hours and days of the Facility.
3. Provide a schematic diagram of the Facility that identifies each potential emission source (i.e. that emits any particulate or gaseous air pollutant), emission control device, and process step. Emission sources, or emission units, include, but are not limited to, the biomass-fired boiler, any auxiliary boilers, fuel and ash handling systems, portable chipping grinding equipment, conveyer systems, and internal combustion engines.
4. Describe the following regarding how emissions are monitored at the Facility:
 - a. Identify each pollutant that is monitored;
 - b. Describe the nature (i.e. stack tests, continuous monitoring, etc.) and the frequency (i.e. annual, monthly, continuous, etc.) of the monitoring; and
 - c. For each pollutant monitored, describe if it is monitored by a continuous emission monitoring system (“CEMS”) or continuous opacity monitoring system (“COMS”), and indicate the dates that each CEMS and/or COMS was installed and became operational.
5. Provide full copies of all emissions test reports and monitoring data conducted at the Facility for any reason, from January 1, 2016 to the present. Emission testing includes, but is not limited to, compliance testing, engineering testing, stack testing, capture efficiency testing, source testing, opacity data, compliance assurance monitoring (“CAM”), CEMS testing, and testing for general information.

- a. For each emissions test provide the following:
 - i. List: Identify the emissions unit, the date of the test, and the test method(s) used. For each test during which the source was not operating at maximum design capacity, provide an explanation for why production was limited.
 - ii. Copies: Provide copies of the summary pages, including the results, for each emissions test, the section describing the process parameters and production or processing rates at the time of the test, all test runs, and all calculations.
 - iii. In electronic chart format (Microsoft Excel compatible), provide daily and monthly total mass (in lbs) and rates (in lb/MMBTU) of emissions from the Facility for nitrogen oxides (“NO_x”), sulfur dioxide (“SO₂”), carbon monoxide (“CO”), particulate matter (“PM”), and hydrochloric acid (“HCl”), and average opacity, including all supporting calculations, log sheets, continuous emissions and opacity monitoring system data, and measurements used to determine emissions. These emissions or other operating parameter data must be provided, even if the calculations are based upon source test emission factors and daily energy production. If spreadsheets are used to calculate emissions, provide a formula for each column in the spreadsheet.
 - b. Provide all records of emission calculations and failed emissions tests required for compliance with Title V emission limits for CO, HCl, NO_x, SO₂, PM, and hydrocarbons or other volatile organic compounds (“VOCs”).
 - c. Identify the cause of any failed emissions tests.
6. For each process unit and/or process step at the Facility that has the potential to emit any air pollutant, including but not limited to SO₂, NO_x, PM, CO, HCl, and hydrocarbons, provide a description of how the emission unit or process step functions, and identify operational parameters including, but not limited to, normal and maximum processing temperatures and normal and maximum feed rates. For any process unit and/or process step that you conclude does not have the potential to emit any pollutants, please provide a copy of any documents upon which you relied for that conclusion.
 7. Provide full copies of Capacity Factor calculations conducted at the Facility for any reason, from January 1, 2017 to the present.
 8. For each biomass-fired boiler at the Facility, provide:
 - a. The unit identification number;
 - b. The date commercial operation began;
 - c. The original design capacity (megawatts gross, MW_g/net generating capacity);
 - d. Current gross and net generating capacity (MW_g/MW_n);
 - e. The original design and current maximum heat input capacity (MMBTU/hr);
 - f. The original design and current steam flow output capacity (lbs steam/hr);
 - g. The current operating status of the boiler;
 - h. The scheduled or planned boiler retirement date;

- i. Current fuel(s) being fired;
 - j. Type of PM emissions control and year installed;
 - k. Type of SO₂ emissions control and year installed;
 - l. Type of NO_x emission controls and year installed;
 - m. Type of CO emission controls and year installed;
 - n. Type of hydrocarbon emission controls and year installed;
 - o. Type of HCl emission controls and year installed;
 - p. Any anticipated emission controls and estimated dates of installation;
 - and q. Provide documentation describing how a minimum dry sorbent injection rate as defined in 40 CFR 63.7575 has been established and how an operating limit pursuant to Table 7, Item 2b requirements (under 40 CFR Part 63, Subpart DDDDD) has been developed. Also, provide documentation describing how an alternative site-specific maximum SO₂ emission rate according to §63.7530(b), if applicable, has been established.
9. Provide copies of the following existing records for the emission control device(s) at the Facility:
- a. The make, model number, and description/specification of each control device;
 - b. Detailed explanation of how emissions are routed, including a description of any capture mechanism;
 - c. Documentation of how emissions factors, including capture efficiencies, were derived, at each process emission point from the use of each control device and the maximum hourly emission rates used to determine emissions;
 - d. A list of operating limits for each emission control device, the method used to establish the values, and the effective date of these operating limits; and
 - e. Any biomass-boiler bed operating temperature measurements.
10. Pertaining to the permitting status of the Facility, provide copies of the following:
- a. Each current air permit;
 - b. Each/all permit application(s) and supporting documents for each air permit or for each air permit that the Facility is currently seeking, whether or not such a permit has been issued or proposed;
 - c. Any major source permits issued at any point, including Prevention of Significant Deterioration (“PSD”) and New Source Review (“NSR”) permits;
 - d. Any synthetic minor permits; and
 - e. Any District analysis or correspondence pertaining to each permit and/or each permit application identified in response to Requests #10a. and #10b.
11. Provide in chart form a list of each and every capital project, with a cost of more than \$50,000, for the Facility for which:
- a. Began actual construction after January 1, 2010; and
 - b. Those which are approved or expected to begin construction in the next 36 months.

12. For each project identified in response to Request #11, include the following information in a list format:

- a. The work order number for the project;
- b. Project description;
- c. Authorized or projected expenditure;
- d. Actual expenditure;
- e. Date of approval;
- f. Project completion date or expected completion date;
- g. In-service date;
- h. Identification of each original equipment manufacturer (“OEM”), equipment suppliers, or contractors that will provide or have provided engineering, fabrication, and/or installation services for the project; and
- i. State whether the capital project was associated with a life extension project, capacity increase, efficiency enhancement, or reliability improvement.

13. For each project identified in response to Request #11 also provide copies of the following documents, records or information:

- a. All capital appropriation requests and/or approvals for such expenditures, regardless of format or title of such request and/or approval;
- b. All emission calculations performed before and after the capital project was completed;
- c. All correspondence with the District or any regulatory agency regarding the potential applicability or exemption of any provision of the Clean Air Act or the applicable State Implementation Plan (“SIP”), including, but not limited to, NSR/PSD, New Source Pollution Standards (“NSPS”), National Emission Standards for Hazardous Air Pollutants (“NESHAP”), and opacity requirements;
- d. All engineering analyses, correspondence, memoranda, telephone discussion summaries, and any other communications, including, but not limited to, Board of Directors reports, meeting minutes, and annual reports, that describe the original as-built performance and performance for the period immediately before and immediately following completion of each capital project, the benefits, provide justification for, or otherwise explain the nature, extent, cost, and frequency of each capital project. This request includes communications both before and after the capital project was undertaken;
- e. All associated purchase orders;
- f. All contracts relating to purchase of equipment and on-site installation or construction for the project;
- g. Any permits received for the project; and
- h. Documents related to the maximum continuous rating of the boiler, both before and after the project was completed, including, but not limited to, documentation of changes in:
 - i. Unit capacity factor;
 - ii. Unit availability;
 - iii. Boiler heat input;

- iv. Steam flow rate;
- v. Steam temperature;
- vi. Steam pressure;
- vii. Unit heat rate (BTU/MWh); and
- viii. Unit efficiency.

14. In chart form, identify and provide monthly quantities of each type of fuel burned at the Facility since January 1, 2010.
15. For the Facility, provide copies of all documents, including reports, correspondence, memoranda, and phone discussion summaries, related to PSD, NSR, NSPS, or NESHAP applicability for any construction or modification undertaken between January 1, 2010, and the date of this Request.
16. Identify in an electronic spreadsheet (Microsoft Excel compatible) all time periods (including their dates between January 1, 2017 and the date of this Request) when the boiler or any of the continuous emissions control devices and CEMS that were non-operational, along with the reason(s) they were not operating.
17. Pertaining to the compliance status of the Facility, provide copies of any notices or documents issued by the state and/or local air permitting authority or authorities pertaining to the following:
 - a. Major or Minor Deficiency;
 - b. Significant Non-Compliance (“SNC”);
 - c. Non-Reporting;
 - d. Permit Exceedance;
 - e. Notices of Opportunity to Correct (“NOC”);
 - f. Notices of Violation (“NOV”);
 - g. Administrative Order; or
 - h. Civil Complaint.
18. For the Facility, provide complete corporate or individual name, provide a list of all owners and operators, including all previous owners and operators, since initial construction of the Facility to the present, including the date of any transfers and the percentage ownership for each owner of the Facility and/or the percent ownership of member or shareholder of each corporation or LLC that owned the Facility. If known, provide the current address, phone number, and state(s) of residence and/or incorporation for each past or current owner, shareholder or member.
19. Provide a copy of the Facility’s current power purchase agreement.
20. What are the 6-digit North American Industry Classification System (“NAICS”) codes used at your address since the plant commenced operations?

21. Provide all copies of Forms A or Forms R drafted or filed under Toxic Release Inventory (“TRI”) or Emergency Prevention and Community Right to Know Act (“EPCRA”) Section 313 (see 40 C.F.R. §372.30), if applicable.
22. Provide all copies of Safety Data Sheets (“SDS”) that you publish or have on file.
23. Quantify the number of full-time employees or their equivalent for each Calendar Year beginning with 2017. (See 40 C.F.R. §372.3.)
24. What are the TRI-listed chemicals you manufactured, processed, or otherwise used in quantities equal to or greater than the respective reporting threshold in the course of a calendar year beginning with 2017? (See 40 C.F.R. §§ 372.25 and 372.65.)
25. State the chemicals, their respective operations or uses, and their respective quantities for each year.
26. Provide daily records of the amounts and types of biomass fuel fired each calendar quarter, the amount of natural gas fired each calendar quarter, the amount of petroleum coke fired each calendar quarter, the amount of railroad ties fired each calendar quarter, the amount of tire-derived fuels (“TDF”) fired each calendar quarter, the amount of corrugated paper waste fired each calendar quarter, and the plant hours of operation. (See Section II.D. Recordkeeping Requirements of the Part 71 Permit No. CB-ROP 05-01, Sept. 2020.)
27. Provide the annual capacity factor individually for petroleum coke, natural gas, and wood for the reporting period. The annual capacity factor is determined on a 12-month rolling average basis with a new annual capacity factor calculated at the end of each calendar month. (See Section II.D. Recordkeeping Requirements of the Part 71 Permit No. CB-ROP 05-01, Sept. 2020.)